

ESTTA Tracking number: **ESTTA30582**

Filing date: **04/14/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<b>Proceeding</b>	92044079
<b>Party</b>	Plaintiff The executors of the Estate of Stevie Ray Vaughan, Texas Estate, Jimmie Vaugh, USA citizen, as sole executerY VAUGHAN The executors of the ESTATE OF STEVIE RA Y VAUGHAN 1208 West Avenue Austin, TX 78701
<b>Correspondence Address</b>	William D. Raman WONG CABELLO, LUTSCH, RUTHIERFORD LLP P.O. BOX 685108 Austin, TX 78768-5108
<b>Submission</b>	Motion for Default Judgment
<b>Filer's Name</b>	Sherri Eastley
<b>Filer's e-mail</b>	wctrademarkaustin@counselip.com
<b>Signature</b>	/Sherri Eastley/
<b>Date</b>	04/14/2005
<b>Attachments</b>	Motion for Default Judgment.TIF ( 3 pages )

CERTIFICATE OF ELECTRONIC TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being electronically transmitted to the U.S. Patent and Trademark Office on the date below:

4/14/05  
Date

Shawn L. Eastley  
Signature

**TRADEMARK**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 2,617,330

Mark: SRV H1M GEAR

Registrant: Lyle Seth Burchill

Issued: September 10, 2002

THE EXECUTORS OF THE ESTATE OF STEVIE RAY  
VAUGHAN, A TEXAS ESTATE, COMPRISING JIMMIE  
VAUGHAN, A UNITED STATES CITIZEN, AS SOLE  
EXECUTOR,

Petitioner,

v.

LYLE SETH BURCHILL,

Registrant.

Cancellation No. 92044079

**MOTION FOR DEFAULT JUDGMENT**

**BOX TTAB – NO FEE**

Commissioner for Trademarks

P.O. Box 1451

Arlington, VA 22313-1451

Madam:

Petitioner, The Executors of the Estate of Stevie Ray Vaughan (hereinafter referred to as “Petitioner”), hereby moves under Rule 55(a), Fed. R. Civ. P., and under 37 CFR §2.114(a) for entry of default against Registrant, Lyle Seth Burchill (hereinafter referred to as “Registrant”),

canceling Registration No. 2,617,330. As explained below, Registrant has failed to answer or otherwise respond to the petition to cancel filed on December 20, 2004. Entry of default judgment is therefore appropriate.

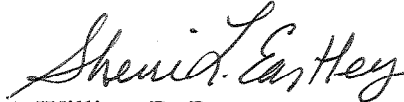
In particular, on December 20, 2004, Petitioner filed a Petition for Cancellation seeking cancellation of Registration No. 2,617,330 for the mark SRV H1M GEAR for goods in Class 25, based on Petitioner's prior use of the mark SRV for goods in Class 25 and the Examining Attorney's refusal to register Petitioner's mark SRV in Class 25 citing a likelihood of confusion with Registrant's Registration No. 2,617,330. On January 12, 2005, the Board sent notice to the Registrant of the Petition for Cancellation and set the Answer date for forty days from January 12, 2005 (thereby setting a deadline of February 21, 2005 to Answer). The time period for Registrant to serve an answer on counsel for Petitioner or otherwise respond to the Petition has now expired. To the knowledge of the undersigned, no answer or response has been filed or served.

Petitioner believes that it will be harmed by the cited Registration and will be prejudiced by further delay. Petitioner therefore requests that the Board enter default judgment under Rule 55(a) against Registrant canceling Registration No. 2,617,330.

No fee is believed to be due in connection with the filing of this document; however, should any fee under 37 C.F.R. § 2.6 be deemed necessary for any reason relating to this application, the Commissioner for Trademarks is hereby authorized to deduct said fee from Wong Cabello Deposit Account No. 501922/355-0011.

Please return the enclosed postcard to evidence receipt of this Motion for Default Judgment.

Respectfully submitted,



William D. Raman  
Sherri L. Eastley  
ATTORNEYS FOR PETITIONER

Wong, Cabello, Lutsch, Rutherford &  
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P.O. Box 685108  
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### **CERTIFICATE OF SERVICE**

I hereby certify the foregoing **MOTION FOR DEFAULT JUDGMENT** is being sent via United States Postal Service, as First Class Mail, postage prepaid, this the 14th day of April, 2005 to Registrant, at the following address as found in the records of the Patent and Trademark Office:

Lyle Seth Burchill  
1415 West Gateway Circle #10  
Fargo, ND 58103

